

Your Life Your Choice

June 2015

Host provider handbook for
people with disability, their
families and support networks

Contents

1.	Introduction	3
2.	Who can self-direct their support?	3
3.	How does it work?	3
4.	Meeting with providers	5
5.	Choosing a host provider	5
6.	Agreement with the host provider	5
7.	Telling Disability Services about my host provider	7
8.	When can I start with my host provider?	7
9.	Safeguards.....	7
9.1	<i>Restrictive Practices</i>	7
9.2	<i>Criminal History Screening</i>	7
9.3	<i>Your Life Your Choice and the Office of the Public Guardian</i>	8
10.	Planning supports and services.....	8
11.	What can I buy with my funding?.....	9
12.	Where can I buy my supports and services?	10
12.1	<i>Certified disability service providers</i>	11
12.2	<i>Non-certified providers</i>	11
12.3	<i>Employment of workers</i>	11
12.4	<i>Employment of family members</i>	11
12.5	<i>Use of contractors</i>	12
12.6	<i>Tax</i>	12
12.7	<i>Income and pension rulings</i>	12
13.	Conflict of interest	12
14.	Change of circumstances.....	12
15.	Unspent funds.....	12
16.	Changing your host provider or making a complaint.....	13
17.	Useful links.....	13
	Glossary.....	14
	Appendix 1 – Your Life Your Choice – Use of Restrictive Practices Policy	17
	Appendix 2 – Management of conflict of interest	21

1. Introduction

This handbook is for people with disability, their families and support networks. It explains how you can self-direct your support using a Your Life Your Choice **host provider**.

Self-directed support enables you, your family and carers to have more choice and control over the disability supports and services you purchase to achieve positive outcomes in your life. By using a combination of disability funding and other resources to plan and purchase supports and services, you become an active participant in the design and delivery of these services.

The [Your Life Your Choice Self-Directed Support Framework](#) explains the important principles and elements of self-directed support in Queensland.

You can choose to self-direct your support through either a:

- host provider – where you make decisions with a host provider about whether you want to take some or all of the responsibility for buying and managing your disability supports and services, or
- direct payments - where you take all the responsibility for buying and managing your disability supports and services and you receive funding directly from Disability Services to pay for these.

2. Who can self-direct their support?

You can self-direct your support if you:

- have individual and ongoing funding from Disability Services, and
- are not in a crisis situation.

If you are interested in self-directing your support through a host provider you need to contact your local Disability Services regional office to find out if this is possible for you to do so.

If you meet the access criteria, Disability Services will tell you how much funding you have and what service categories you have been assessed to receive.

If you have a restrictive practice in place or are a client of the Public Guardian, there are additional conditions when you use a host provider. See section 9 - Safeguards, for more information.

You can contact your local Disability Services service centre for more information. Contact details can be found at: www.communities.qld.gov.au/disability/contacts/regions.page

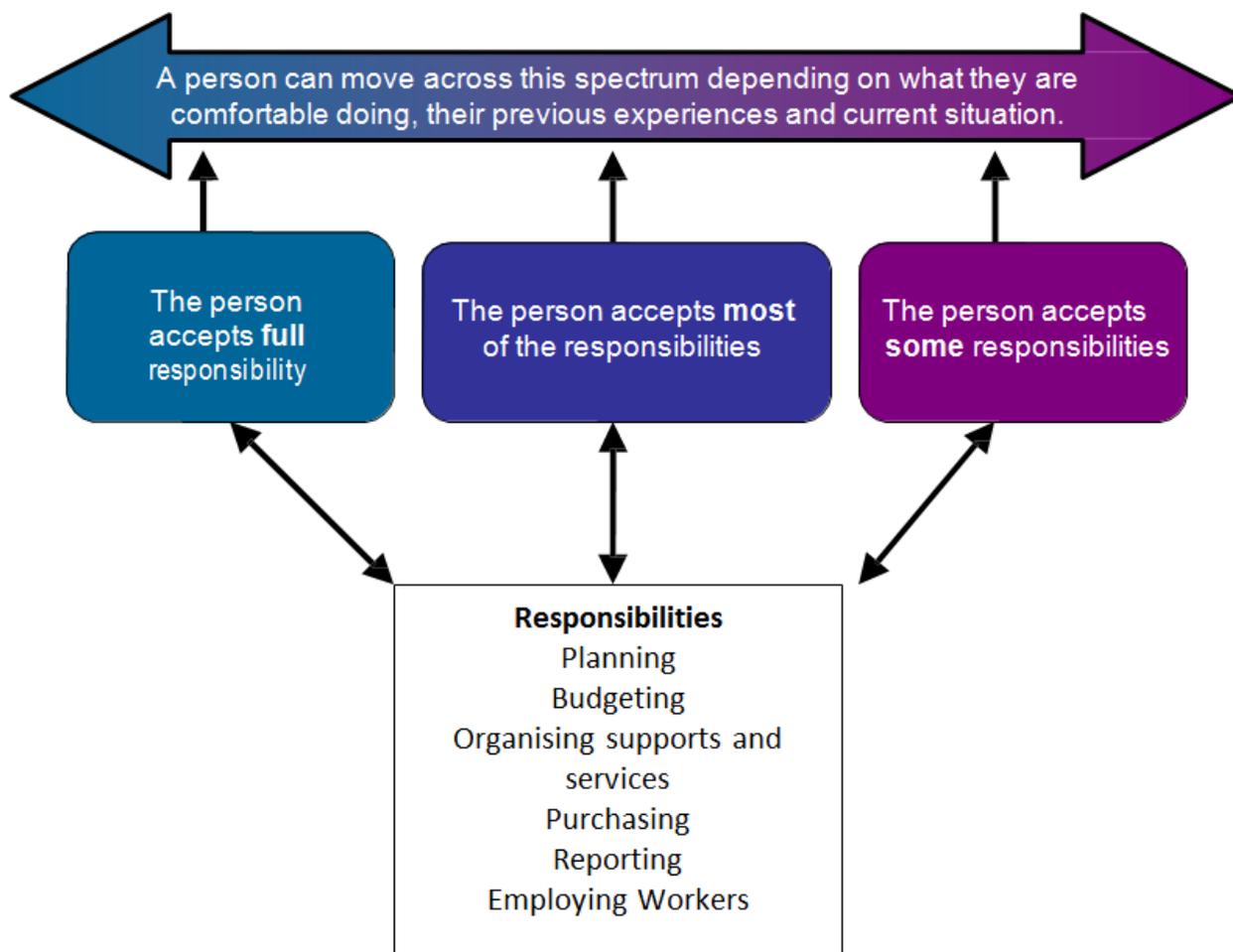
3. How does it work?

Host Providers are service providers with an Agreement with the Department of Communities, Child Safety and Disability Services and must achieve certification under the Human Services Quality framework. Host providers assist you to plan and purchase your disability supports and manage your funding.

If you self-direct your support with a host provider, you can make decisions about whether you want to take some or all of the responsibility for purchasing and managing your disability supports and services. It also lets you make the decisions about how you will receive your disability supports and services and where from.

This means the choice is yours - you may want your host provider to give you a little bit of help, or a lot of help, to self-direct your support. The different levels of responsibility are shown in the spectrum of self-direct support diagram below.

Diagram



Host providers offer different types of support. Some will assist you with all the things you need to do to self-direct your support, others will assist you to take most of the responsibilities.

Where a host provider has a service that supports you to take full responsibility for your supports and services, you will have the responsibility to:

- develop and manage your plan for supports and services
- identify, choose and pay the suppliers of your supports and services
- provide financial reports on how you spend your government funding to the host provider.

Where a host provider has a service that supports you to take on some or most of the responsibility for your supports and services, you will have the responsibility to develop your plan for supports and services but may receive support from a host provider to manage the purchase of your supports and services.

Knowing how much responsibility you want to take will help you to choose your host provider. You may want to talk to your family, friends or support networks.

4. Meeting with providers

You are encouraged to meet with several host providers to find the one that best suits you. To help you decide you should ask them:

- about the services they offer and how much these cost
- how they will assist you to manage your supports and the disability services you buy
- how you could potentially work together.

5. Choosing a host provider

Information on host providers that have been endorsed by Disability Services, the supports they offer, where they are available in Queensland, and their fees, is available at: [Host Provider Information](#).

The host provider you choose does not have to be located close to where you live. If you choose a host provider that is not close to where you live, you need to ask them how they will support you from a distance.

You should tell the host providers the service categories you have been assessed for and how much funding you have. Disability Services will provide you a letter with this information included in it. You should also tell the host provider if you have a restrictive practice in place or if you have the Public Guardian as your decision maker.

You may want to think about these questions to help you to identify the type of support you may prefer from a host provider:

- Do I need help with planning?
- Do I need help to find the supports and service I want to buy?
- Do I want help to find my own support workers?
- Do I want to employ my own workers?
- Do I want to pay the wages of people I employ?
- Do I want to buy my supports and services from non-government service providers?
- Do I want the host provider to transfer my funding into a bank account for me to manage?

Please note: Self-directing your support does not always involve employing your own workers.

6. Agreement with the host provider

With self-directed support, you have an active role in the development of your plan for supports and services, including the choice of the supports and services you buy. However, a host provider will have the responsibility to administer the funding and report on all purchases made with the funding to Disability Services. All of these responsibilities will be captured within your agreement with the host provider.

The host provider has some standard responsibilities that need to be outlined in the agreement that you sign with them. These include clearly identifying:

- the agreed roles and responsibilities of you and the host provider

- the supports the host provider will provide and associated fees
- the service categories you are able to purchase with your individual funding (based on your assessed need)
- how the funding will be managed
- how to change the level of responsibility you have in self-directing your supports
- what information you need to provide to the host provider for them to report to Disability Services on how much funding you have spent and the services you have received
- what to do if you want to change your plan for supports and services
- the Disability Services and host provider policies you need to comply with
- how to change or stop the agreement or change the host provider.

Before signing the agreement you should also discuss the host provider's responsibilities for:

- assisting you to develop a plan for supports and services that meets your assessed disability support needs
- endorsing your plan for supports and services
- ensuring purchases made with Disability Services funding are consistent with the approved items on your plan for supports and services
- managing the taxation impact of making any payments directly to you (if applicable)
- managing records in accordance with relevant legislation
- managing conflicts of interest
- working with you to adhere to the relevant Disability Services policies e.g. the Your Life Your Choice – Use of Restrictive Practices Policy.

Where relevant, you may also want to discuss:

- managing the employment of support staff
- assisting with the completion of pre-employment screening
- managing the payment of wages and insurances
- implementing occupational health and safety requirements
- managing financial expenditure (including NMDS reporting and financial accountability).

You may want to ask your family, friends, advocate, lawyer or someone else in your network to check the agreement before you sign it to make sure you are getting what you want and need.

7. Telling Disability Services about my host provider

You need to know what a host provider will provide you and what they will charge for this. This is important as your funding needs to pay for the supports and services in your plan and the fees of the host provider.

Once you and the host provider have agreed, you need to let your Disability Services service centre know who the host provider is and what the fees are that they will charge you. You can do this by email, letter or by phoning them.

The Disability Services regional office will talk to your host provider to make sure they have all the information that is needed.

8. When can I start with my host provider?

Once you have let the Disability Services service centre know who your host provider will be, Disability Services and the host provider will work as quickly as possible to get you started. This may take up to six weeks.

The host provider will keep you up to date with progress and tell you when this has happened.

9. Safeguards

9.1 Restrictive Practices

Disability Services has a policy called the Your Life Your Choice – Use of Restrictive Practices Policy. Under this policy, if an adult with intellectual or cognitive disability has or needs a positive behaviour support plan with a restrictive practice, they can still be a participant under Your Life Your Choice, but some conditions apply.

Where a restrictive practice is in place the services, where a restrictive practice is used, must be purchased from a relevant service provider. A relevant service provider is a Disability Services funded service provider that delivers disability services and is regulated under Part 6 of the *Disability Services Act 2006*. Your host provider or your Disability Services service centre will be able to help you find a relevant service provider.

You only have to purchase services where the restrictive practice applies from a relevant service provider.

If a host provider deposits funds into your account for these services you and the host provider will need to have a process in place to show that you are buying these from a relevant service provider.

Please see The Your Life Your Choice – Use of Restrictive Practices Policy (Appendix 1).

Information about Positive Support Plans and Restrictive Practices can be found at:
<http://www.communities.qld.gov.au/disability/key-projects/positive-behaviour-support>

9.2 Criminal History Screening

The department supports the screening of workers to ensure they are suitable and appropriate workers. Screening may include interviews, referee checks and criminal history screening. There are several types of criminal history screening process that operate in Queensland: yellow cards for people working with people with disability or Blue Cards for people working with children, and the National Police Certificate.

You should talk to your host provider about how to ensure sufficient screening of potential workers, including when you buy supports from non-certified providers (see glossary) and when you employ your own workers or engage contractors.

9.3 Your Life Your Choice and the Office of the Public Guardian

There are some restrictions for some people accessing Your Life Your Choice. If you are a client of the Public Guardian, you are not able to receive payments directly into your bank account through a Your Life Your Choice host provider.

For more information about this please talk to your host provider.

For more information about the public guardian, see <http://www.publicguardian.qld.gov.au>.

10. Planning supports and services

When you choose a host provider, you will need a plan for the goals and things you want to achieve and the disability supports you need to do these. This will include what disability supports you will buy, where you will buy them from and how much these will cost. This will be your plan for supports and services.

There is no set format and process when planning for your supports and services. You may want to use words, drawings or pictures to tell your story. Your host provider will discuss with you what the plan will look like and it should be flexible enough to respond to your disability needs.

During planning, there are a number of things you might like to talk about with your host provider, such as:

- What is important to you in your life?
- What are your assessed disability support needs?
- What supports you need to remain healthy and safe?
- What works and doesn't work in your life at the moment?
- What ways would you like to keep in contact with friends and participate in your community?
- What are your aspirations (hopes and dreams)?
- What are your priorities and goals?
- What are the things you already do, want to do, learn, and achieve?

You will need to tell your host provider:

- If you have a restrictive practice in place.
- If you have the Public Guardian as your formal decision maker.

When you are developing your plan you will need to show what supports and services you are going to buy to meet your assessed disability support needs.

The plan will have a focus on linking your assessed service categories to your goals and priorities and to the specific supports and services you think will meet your disability support needs. The planning process should give you opportunity to have more choice and control over the disability supports you buy.

At a minimum, your plan for supports and services will need to include:

- what services categories you are assessed to receive
- your priorities or goals
- what supports and services you will buy to meet your assessed need
- how much each of these will cost in relation to the amount of funding you have
- where the supports and services will be bought from. (If you have a restrictive practice in place there are conditions on where you can buy these from. See section 9 Safeguards, for more information.)

You can develop your plan for supports and services before you approach a host provider or you can ask a host provider to help you develop one. Regardless of how your plan for supports and services is developed it belongs to you. It may be based on a broader life planning process, which involves identifying your vision, aspirations, goals and priorities.

Your plan for supports and services can change if your situation or support needs change.

A host provider may assist you to make changes to what you are going to buy and re-budget for these changes within your plan or you may be able to make your own changes.

All changes to your plan will need to be endorsed by your host provider. The host provider will make sure the changes still link to your assessed service categories and goals and that the supports and services you want are reasonable to use the funding to buy.

Links to resources to assist with planning are provided under [Useful Links](#).

11. What can I buy with my funding?

All Disability Services funding must be used to purchase reasonable and necessary supports and services that are directly related to your assessed disability support needs, and your goals and priorities.

Your Life Your Choice lets you plan and purchase across all the service categories Disability Services has assessed you as needing. Disability Services will let you know what service categories you have been assessed for.

Service categories include:

- Accommodation Support
- Community Support
- Community Access
- Respite
- Alternative forms of communication
- Goods and services.

You and the host provider will use this information to develop your plan for supports and services. The plan requires you to describe what supports and services you will buy, how many of these will be bought and where they will be bought from.

During the planning process you will be able to decide to purchase across all service categories you are assessed for. During planning you will need to ensure you are able to meet your priorities within the funding allocation you receive.

Any supports and services purchased must:

- be directly related to your assessed service categories
- be what is reasonable to use Disability Services funding for
- be outlined in your plan for supports and services
- help you achieve your priorities or goals
- directly benefit you
- be cost effective
- represent 'best value' (see the [Glossary](#)).

The purchase of supports through Your Life Your Choice must demonstrate the proper use of public resources and a direct link to your assessed need.

The funding **cannot** be used to pay for:

- supports funded by other local, state and commonwealth government programs
- costs that other community members would be reasonably expected to pay for with their own money, such as electricity, gas, telephone and internet, general household fittings, furniture and white goods not used by the person with a disability in meeting their disability support needs, food, groceries, rent or the purchase, running or maintenance costs of vehicles
- illegal activities, gambling or activities that are considered harmful to a person's health.

Disability Services funding is not to be considered as additional income. It cannot be used to buy everyday things that you may not be able to afford with your personal income.

12. Where can I buy my supports and services?

You may choose to buy your supports and services from:

- certified disability service providers and/or
- non-certified providers (see Glossary) and/or
- you may also choose to employ your own workers or to engage contractors.

The exception to this is where you have a restrictive practice in place. In this situation you will need to purchase the service, where the restrictive practice applies, from a relevant service provider.

When you develop your plan for supports and services, you need to talk to your host provider about where you can buy your supports and services. You may also ask your host provider to tell you about the things you need to think about to help you decide where you want to buy your supports and services.

You are responsible for selecting where and how you get your support, the host provider will offer as much or as little support as you have agreed to.

Where you buy supports and services must be included in your plan.

You and your host provider will need to find out about the cost of services and make a decision about whether this represents the best value for money for the services provided. You and the host provider will need to consider the standard award rates that will be paid for the service and where necessary align the employment arrangements to fair work practices.

If the host provider has concerns about where you are purchasing your supports from or the rates you are paying, they will discuss this with you.

12.1 Certified disability service providers

A certified provider is a non-government disability service who has met the requirements of the Human Services Quality Framework.

If you buy your services from a certified provider, you will know that the service provider has policies and processes in place that protect your rights and provides you with safeguards.

12.2 Non-certified providers

Non-certified providers are those that are available to anyone in the community. These providers do not get funding from Disability Services.

Disability Services does not monitor or regulate the supports and services provided by non-certified providers. These providers may be regulated under laws that apply to all businesses, such as Australian Consumer Law.

Disability Services cannot assist a person with complaints about the services provided from non-certified providers.

12.3 Employment of workers

You may decide to employ your own workers. You should discuss this with your host provider and make sure that you have all the necessary information and support needed to do this.

If you become an employer you will be responsible for setting up your own employment or business structure. You need to consider things like payroll, work place health and safety, insurance, taxation, superannuation and conflict of interest. You need to be sure that you can meet all the requirements of being an employer.

As an employer you will be responsible for monitoring the quality of your workers. If you have concerns about the quality of a service provided by a worker you employ it would need to be managed under workplace relations laws.

You should ask your host provider for more information about becoming an employer and decide whether this is the right choice for you.

If you have a positive behavior support plan in place, which includes the use of restrictive practice, you will not be able to employ your own workers and will need to purchase supports from a relevant service provider, in line with the Your Life Your Choice – Use of Restrictive Practices Policy (Appendix 1).

12.4 Employment of family members

The department (in line with the National Disability Insurance Scheme) does not support the employment of family members.

The reason for this is to safeguard people with disability by:

- supporting families to have natural family relationships, regular sources of income and ensuring they are not financially dependent on an individual's funding
- reducing the risk of breakdown of relationships within the person with disability's natural networks
- preventing or avoiding any conflict of interest between a family member and the supports for the person with disability

- ensuring the person with disability's best interest and welfare are the primary motivation for the purchasing and provision of supports and services
- increasing the opportunity for the person with disability to engage in a wide range of social interaction and situations.

If you have explored all options and in your opinion there are no other alternatives than employing a family member then you should contact your host provider to discuss this further.

12.5 Use of contractors

The Australian Taxation Office outlines the difference between employees and contractors.

You will be responsible for making sure that you are engaging people to work with you under the right working conditions.

You should ask your host provider for more information about engaging contractors and refer to the Australian Taxation Office website: www.ato.gov.au

12.6 Tax

If you choose a host provider that will pay your funding directly into your bank account, you should ask them which purchases will be affected by taxes and what this means for your funding.

12.7 Income and pension rulings

The Australian Taxation Office has ruled (Class Ruling CR2013/45) that any payments under Your Life Your Choice self-directed support are not considered assessable or taxable income. Any interest earned on those funds in your bank account is also not considered to be taxable income.

The Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs has ruled (F2013L00911) that Your Life Your Choice is an approved personal care support scheme under section 35A of the *Social Security Act 1991* and that any payments under Your Life Your Choice self-directed support are not considered income when determining eligibility for social security payments or the amount of those payments.

Refer to the Australian Taxation Office website for more information: www.ato.gov.au

13. Conflict of interest

It is important to understand what a conflict of interest is and to know how to manage these situations in relation to self-directed support.

Where a conflict of interest exists it must be resolved and either avoided or effectively managed. Therefore if you think a conflict of interest may be occurring or is likely to occur in relation to your self-directed support, speak with your host provider.

An overview of what might be a conflict of interest and steps to take to manage it are included in Appendix 2.

14. Change of circumstances

If your circumstances or your situation have changed, or you require or request additional funding, you will need a review and, if necessary, have a reassessment by Disability Services.

15. Unspent funds

If over a financial year (July to June) you have not spent all your funds you will need to talk to your host provider. Your host provider will talk to you about what you need to do in this situation.

16. Changing your host provider or making a complaint

If you are unhappy with the support or services provided by your host provider you need to discuss this with them.

The host provider should talk to you about how they will manage any issues that arise, including changing host provider, before you sign an agreement with them.

If there are issues you or the host provider cannot resolve you may decide to find another host provider. You need to do the same things that you did before when choosing a host provider, including agreeing on the supports and services they will provide and their fees.

If you want to make a complaint about the quality of a host provider's services you can make a complaint at your nearest Disability Services service centre. They can discuss the complaint with you and what you could do. If they think that it is necessary to make a formal complaint they may refer you to the departments Complaints and Review area.

More information about the Disability Services complaints process can be found at:

<http://www.communities.qld.gov.au/gateway/about-us/feedback-and-complaints>

If you buy a service from a non-certified provider, you need to use the complaints process provided by that service. Disability Services is not able to assist you with this.

17. Useful links

Your Life Your Choice

www.communities.qld.gov.au/disability/key-projects/your-life-your-choice

Office of Fair Trading

www.fairtrading.qld.gov.au

Australian Taxation Office

www.ato.gov.au

Public Guardian

<http://www.publicguardian.qld.gov.au/adult-guardian>

Self-direction

<http://pearl.staffingoptions.com.au/>

www.communitydoor.org.au/sector-readiness/resources

Planning

<http://www.familiesleadingplanning.co.uk>

www.helensandersonassociates.co.uk (see "person-centred practices" menu option)

<http://www.inclusion.com/inclusionpress.html> for example <http://www.inclusion.com/path.html>

Glossary

Annual Record of Purchases: A report a direct payments participant makes on the purchases made over the year with their individual funding.

Best value: The process of establishing quality, prices, and availability that provides the best overall benefit to a person.

Certified provider: A certified provider is a non-government disability service who has met the requirements of the Human Services Quality Framework.

Criminal history screening: A check undertaken to identify criminal convictions.

Direct payments: Direct payments are where Disability Services deposits money directly into the bank account of a person with disability, or their relevant person, for the purchase of disability supports and services.

Disability Services: Disability Services are those defined by the *Disability Services Act 2006* which means one of the following service categories:

1. accommodation support services;
2. respite services
3. community support services
4. community access
5. alternative forms of communication
6. goods and equipment.

Family/families: Family members of an adult or child with disability. Family members may or may not live in the same residence as a person with disability.

Host provider: A host provider is a non-government service provider that has been endorsed as a host provider. A host provider will assist a person to self-direct their individual funding and to have more choice and control over the supports and services they receive.

Host provider services enable a person to make decisions about the level of responsibility a person has for purchasing and managing their disability supports and services.

Individual host provider agreement: The agreement between the host provider and a person with disability. The agreement will state the terms and conditions of the management and administration of a person's funding.

Individual Funding Agreement: The agreement between Disability Services and a direct payments participant or their relevant person. The agreement will state the terms and conditions of the management and administration of the arrangement.

Individualised funding: Ongoing funding allocated to a person for the specific purpose of providing disability support for that person.

Non-certified provider: A non-certified provider is any service in the community that is not funded under the *Community Services Act 2007* and is not audited under the Human Services Quality Framework. Examples could include a local naturopath, swimming teacher or private physiotherapist.

Person: Refers to an adult or child with disability.

Plan for supports and services (host provider): A plan which has a focus on linking the person's goals and aspirations and assessed disability support needs to their purchases of supports and services made with Disability Services funding. The planning process should maximise a person's opportunity for more choice and control over the supports and services they purchase.

Quarterly NMDS report and certification: Reporting required under a Service Agreement with Department of Communities, Child Safety and Disability Services.

Relevant service provider: A relevant service provider is a funded service provider that provides disability services to an adult with an intellectual or cognitive disability and is regulated under Part 6 of the *Disability Services Act 2006*.

Relevant person (Direct Payments): A relevant person for an adult with disability is:

- a person nominated by the adult to deal with direct support matters on their behalf; or
- a guardian or an administrator appointed for the adult; or
- an attorney appointed by the adult under the *Powers of Attorney Act 1998*;
- a member of the adult's support network other than a paid carer for the adult within the meaning of the *Guardianship and Administration Act 2000*.

A relevant person for a child with disability is a parent of the child. A parent of a child with disability includes:

- a person who exercises parental responsibility for the child, other than a person standing in the place of a parent of a child on a temporary basis; and
 - for an Aboriginal child - a person who, under Aboriginal tradition, is regarded as a parent of the child; and
 - for a Torres Strait Islander child - a person who, under Island custom, is regarded as a parent of the child.

The relevant person may assist with planning, arranging for the provision of supports, and managing the direct payments funding administration arrangement.

Your Life Your Choice – Use of Restrictive Practices Policy: Adults with intellectual or cognitive disability who are self-directing their support under the Your Life Your Choice Self-directed Support Framework and have behaviours that cause physical harm to themselves or others; a serious risk of physical harm to themselves or others; or damage to property and are subject to use of a restrictive practice as part of the delivery of a particular disability support must:

- use a host provider
- purchase from a relevant service provider regulated under Part 6 of the *Disability Services Act 2006* for the provision of the particular support where the restrictive practice is used.

This applies to the use of restrictive practices in the areas of:

- containment
- seclusion
- chemical, mechanical and physical restraint
- restricting access to objects.

Service categories: Refer to the NMDS Service Category; a grouping of disability service types. These describe the higher level of service types Disability Services assesses a person as needing.

Statement of Support and Funding (Direct Payments): A form that outlines a direct payment participant's priorities or goals and details the supports and service and how much they plan to buy of these to achieve those goals.

Other supports and services (e.g. informal or community services) can also be identified on this document.

Support network: A person's support network could include their family members, friends, carers, and informal advocates who support a person with a disability with planning and achieving their priorities or goals. They may also provide informal support to the person. The term excludes support workers and service providers.

Appendix 1 – Your Life Your Choice – Use of Restrictive Practices Policy

Disability Services Policy

Title: Your Life Your Choice – Use of Restrictive Practices Policy

The Department of Communities, Child Safety and Disability Services is committed to upholding the rights and wellbeing of people with disability. The Queensland Your Life Your Choice Self-Directed Support Framework supports this commitment by providing options for people with disability to have increased choice and control to ensure they get the maximum benefit from the disability supports and services they purchase.

This support for increased choice and control includes people with intellectual or cognitive disability who have behaviours that cause physical harm to themselves or others; a serious risk of physical harm to themselves or others; or damage to property.

This policy is supported by the safeguards within the *Disability Services Act 2006*. These safeguards include:

- Part 3 - Complaints about the delivery of disability services by funded service providers
- Part 5 - Screening of particular persons engaged by the department or funded non-government service providers
- Part 6 – Positive behaviour support and restrictive practices.

In addition, the training and resources available through the Centre of Excellence for Clinical Innovation and Behaviour Support on the use of restrictive practices will assist with ensuring appropriate safeguards are maintained.

As identified in the Heads of Agreement between the Commonwealth and Queensland Governments on the National Disability Insurance Scheme (NDIS), Queensland will adopt NDIS-like policies and processes, wherever possible.

This policy is developed to achieve a balance between enabling choice and control and ensuring adequate and appropriate safeguards are in place.

Policy statement

Adults with intellectual or cognitive disability who are self-directing their support under the Your Life Your Choice Self-Directed Support Framework and subject to use of a restrictive practice as part of the delivery of a particular disability support must:

- use a host provider
- purchase from a *relevant service provider* regulated under Part 6 of the *Disability Services Act 2006* for the provision of the particular support where the restrictive practice is used.

This applies to the use of restrictive practices in the areas of containment, seclusion, chemical, mechanical and physical restraint and restricting access to objects.

Where “person with disability” is used in this policy it means an adult with intellectual or cognitive disability. For the purpose of this policy person with disability also includes any formal guardian or substitute decision maker.

Policy detail

This policy is intended to ensure:

- the restrictive practice is not used for a person with disability without appropriate oversight and adherence to Part 6 of the *Disability Services Act 2006*

- the restrictive practice is not used as a form of punishment
- positive behaviour support has been used to reduce or eliminate the use of restrictive practices
- a person with disability is appropriately safeguarded.

Host provider

The host provider must ensure a person with disability moving to Your Life Your Choice who is subject to the use of a restrictive practice:

- purchases the direct care and support where the restrictive practice is applied from a *relevant service provider* regulated under Part 6 of the *Disability Services Act 2006*
- has this in place at the commencement of receiving supports through Your Life Your Choice.

If the host provider is depositing the funds into a person with disability's bank account, for the delivery of services that include a restrictive practice, they must report to the department strategies for ensuring that purchases are occurring in line with this policy e.g. host provider paying invoices.

Where the need for a restrictive practice arises for a person with disability who has already moved to a Your Life Your Choice – host provider, it is the responsibility of the host provider to:

- notify the department immediately of the need for a restrictive practice
- review the provision of direct care and support where a restrictive practice is applied to ensure the requirements of this policy are met
- assist the person with disability to develop and enact a transition plan to have all direct care and support, where a restrictive practice is applied, provided by a *relevant service provider* regulated under Part 6 of the *Disability Services Act 2006*.
- ensure any risks and safeguards for a person with disability are considered as part of the transition.

Direct payments

Where the need for a restrictive practice arises for a person with disability who has already moved to Your Life Your Choice - direct payments it is the responsibility of a person with disability or relevant person to:

- notify the department immediately of the need for a restrictive practice
- work with the department to:
 - develop and enact a transition plan as soon as possible
 - move funding to:
 - a host provider, OR
 - a traditional service provider which has a service agreement with the Department of Communities, Child Safety and Disability Services
 - purchase the particular support where the restrictive practice is applied from a *relevant service provider* regulated under Part 6 of the *Disability Services Act 2006*
 - ensure any risks and safeguards are considered as part of the transition.

Development and implementation

The *relevant service provider* with the responsibility for the provision of service where the restrictive practice is applied must meet the costs associated with compliance with this policy, the restrictive practices framework in the *Disability Services Act 2006 and the Guardianship and Administration Act 2000*. The *relevant service provider* must meet the costs of the development of the positive behaviour support plan and the implementation and ongoing monitoring of the use of restrictive practices.

The *relevant service provider* must meet these costs from within their existing organisational budget and/or the person's individual funding allocation. The *relevant service provider* must reach agreement with a person with disability on how these costs will be met.

The exception to this is the restrictive practices defined as containment and seclusion, where the department has specific planning responsibilities under the *Disability Services Act 2006*. Where the department has responsibilities under the Act, the department is responsible for the development and approval of the plan.

Principles:

- Human rights, wellbeing, inclusion, safety and quality of life for people with disability are upheld.
- The safeguards in the *Disability Services Act 2006* are upheld in the purchasing and provision of supports and services for Your Life Your Choice participants.
- Maximum choice and control is maintained for people with disability and purchasing requirements are only applied to the particular disability supports where a restrictive practice is applied.

Objectives:

The objectives of this policy are to ensure:

- safeguards specific to a person with disability are considered at all times
- opportunities for positive outcomes are maximised for a person with disability where a restrictive practice is applied, it is the least restrictive option in the circumstance
- there is a reduction in, and where possible an elimination of, the use of restrictive practices
- the risk of harm, abuse, discrimination or exploitation is reduced.

Scope:

This policy applies to:

- positive behaviour support planning and restrictive practices as defined in Part 6 of the *Disability Services Act 2006*
- adults with intellectual or cognitive disability self-directing their support through Your Life Your Choice.

Roles and Responsibilities:

Your Life Your Choice host providers

- ensure a person with disability is aware of this policy
- advise and work with relevant guardians and decision makers
- adhere to this policy
- assist a person with disability to develop and enact a transition plan to have all direct care and support, where a restrictive practice is applied, provided by a *relevant service provider*
- monitor the implementation of the transition plan to make sure the provision of services are transitioned to a *relevant service provider*
- advise the department of non-compliance and work with the department to align with the this policy as soon as possible.

Your Life Your Choice relevant persons

- adhere to this policy
- advise and work with relevant guardians and decision makers

- ensure a person with disability understands this policy to the greatest extent possible
- work with the department to develop and enact a transition plan to move funding to a host provider or a traditional service provider which has a service agreement with the Department of Communities, Child Safety and Disability Services as soon as possible
- advise the department of non-compliance and work with the department to align with this policy as soon as possible.

Disability Services Regional staff

- provide a person with disability, relevant person and host providers with a copy of this policy
- provide consistent advice about the application of this policy
- assist in the development of a transition plan to have all direct care and support provided by a *relevant service provider*
- monitor compliance with this policy and work with relevant parties to align with this policy as soon as possible.

Authority

Disability Services Act 2006

Delegations

Regional Directors

Regional Directors are delegated to implement this policy within the departmental regions and are accountable for ensuring that appropriately skilled staff deliver services under this policy.

Once a person with disability is purchasing services through a *relevant service provider*, the usual restrictive practices delegations identified in the *Disability Services Act 2006* apply.

Records File No.:

Date of approval: 28 April 2015

Date of operation: 1 July 2015

Date updated:

Office: Disability Services,
Disability Services and Portfolio Renewal

Help Contact:

Links:

Related policies

Strategic context

Related legislation or standard

- *Disability Services Act 2006*
- *Human Services Quality Standards December 2012*
- *Guardianship and Administration Act 2000*

Rescinded policies

Michael Hogan
Director-General

Appendix 2 – Management of conflict of interest

What is a conflict of interest?

A conflict of interest concerns a conflict between a person's role or duty undertaken in Your Life Your Choice and any private interest.

A conflict of interest exists when a person with the responsibility (*known from here on as **the person***) for managing, administering, providing or purchasing supports and services on behalf of or with the participant with disability (*known from here on as **the participant***), makes a decision that will result in any of the following:

- benefit the person
- avoid a loss for the person
- give a participant, their family or friends a financial advantage gained from the use of departmental funding
- compete with the interests of a participant.

The person's role or duty in Your Life Your Choice includes the responsibility they have in managing, administering, providing or purchasing supports and services whether they are directly or indirectly involved in providing services.

A conflict of interest may occur when the person with the responsibility is a friend, family member, relevant person, a participant or service provider.

A conflict can occur while the person is acting in a professional, administrative or informal role.

There are **3 types** of conflict of interest:

Actual conflict of interest – occurs when there is a real conflict between the person/s role or duty undertaken in Your Life Your Choice and their private interest.

Potential conflict of interest – arises where the person/s private interests that could conflict with their role or duty undertaken in Your Life Your Choice.

Perceived conflict of interest – occurs where from a third party view the person/s could be improperly influenced by their private interests when carrying out their role or duty in Your Life Your Choice both now and into the future.

What must happen if a conflict of interest is identified?

An actual, potential or perceived conflict of interest may:

- exist prior to a participant commencing with Your Life Your Choice OR
- arise while a participant is self-directing their support through Your Life Your Choice.

Where an actual conflict of interests exists it must be resolved and either avoided or effectively managed.

Any potential or perceived conflict of interest that has or could have an adverse effect on the participant must be prevented.

Any conflict of interest must be immediately discussed with your host provider or a Disability Services staff member.

Determining whether situations and circumstances present as a conflict of interest will require each person involved in or effected by the conflict to consider the situation based on the participant's circumstances.

Any impact or potential impact of the conflict of interest must be assessed to determine if it will now or in the future have an adverse effect on the participant. An appropriate resolution strategy will be put in place to limit or avoid any adverse effects.

Strategies include: ensuring appropriate safeguards are in place; conducting an independent assessment of the conflict to consider how it can be avoided; separating the person who has the conflict from making decisions related to the conflict.

The situation must be monitored to ensure the resolution strategy put in to place continues to be effective.